IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 13698 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE A.M.KAPADIA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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VINUBHAI KALABHAI MAKWANA - Petitioner(s)

Versus

SHRI BHUPENDRASING DALELSING BHUGTANA - Respondent(s)

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Appearance :
MR NS SHETH for Petitioner No(s).: 1.
MR KN PATEL for Respondent No(s).: 1.
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CORAM : HON'BLE MR.JUSTICE A.M.KAPADIA

Date : 04/08/2005

ORAL JUDGMENT

1. By filing instant petition under Article 227 of the Constitution, the petitioner seeks to challenge the order dated 20.9.2004 rendered below application for summons for judgment at Ex.14 in Summary Civil Suit No.5418 of 2003 by the learned Judge of the Small Causes Court, Ahmedabad by which the application for

summons for judgment taken out by the respondent at Ex.14 came to be allowed and thereby the petitioner is granted conditional leave to defend the suit on depositing Rs.15,000/- within a period of six weeks from the date of passing of the order.

2. Having heard Mr. N.S. Sheth, learned advocate for the petitioner and Mr. K.N. Patel, learned advocate for the respondent and having perused the impugned order, according to this court, no illegality or infirmity much less jurisdictional error has been committed by the learned Judge of the Small Causes Court in granting conditional leave to defend the suit on the petitioner depositing Rs.15,000/- since the petitioner has failed to make out case for unconditional leave.

3. In aforesaid view of the matter, the petition lacks merit and deserves to be rejected.

4. For the foregoing reasons, the petition fails and accordingly it is rejected with no order as to costs. Rule is discharged. Interim relief granted at the time of issuance of rule shall stand vacated.

5. In the facts and circumstances of the case, time to deposit Rs.15,000/- as per the impugned order shall stand extended for a further period of 4 weeks hereof.

(A.M. Kapadia, J.)

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